

Appl. No. : 09/786,043
Filed : August 13, 2001

REMARKS

Applicants have cancelled Claims 109 and 114-158, and have amended Claims 110-113. As explained more fully below, the amendments add no new matter and are fully supported by the specification as originally filed.

Applicants respond below to the comments, objections, and rejections set forth in the Office Action of August 28, 2002.

I. Claim Numbering

Applicants thank the Examiner for correcting the claim numbers. The amendments above refer to the correct claim numbers. In addition, Applicants have amended Claims 112 and 113 render the claim number of the claims from which these claims depend consistent with the new numbering scheme.

II. Restriction Requirement

The Examiner reiterates the restriction of the claims to the various groups identified in the Restriction Requirement of February 27, 2002, except that the claim numbers have been corrected. The Examiner has also rejected Applicants traversal of restrictions. Applicants hereby confirm their election of the claims of Group I, directed to an isolated nucleic acid molecule comprising SEQ ID NO:1, which encodes an amino acid sequence set forth in SEQ ID NO:2, which includes claims 109-113.

Applicants have cancelled the claims drawn to the non-elected subject matter, i.e., Claims 114-158. Applicants maintain that the cancellation of these claims makes no admission as to their patentability and that the claims have been cancelled solely in response to the restriction requirement. Applicants reserve the right to pursue the subject matter of the cancelled claims in a continuation, continuation-in-part, or divisional application.

III. 35 U.S.C. § 112, Second Paragraph

Claims 110, 112, and 113 stand rejected under 35 U.S.C. § 112, second paragraph, for allegedly being indefinite. The Examiner has objected to the phrases "at least about," "substantially," and "derivative homologue."

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Without acquiescing to the Examiner's objections and solely to advance the case towards allowance, Applicants have amended the claims and have removed the aforementioned phrases. However, Applicants have retained the word "substantially" in Claim 111 since the metes and bounds of the subject matter of this claim, which encompasses a nucleic acid molecule that hybridizes to the molecule of SEQ ID NO:1 under medium stringency conditions (said conditions set forth in the specification at page 17, lines 18-22), is clear to those of skill in the art.

The Examiner has also objected to the dependency of Claims 112 and 113. As set forth above, the dependency of Claims 112 and 113 has been corrected.

In view of these amendments, Applicants respectfully request that the Examiner reconsider and withdraw the rejection.

IV. 35 U.S.C. § 112, First Paragraph

Claims 109-113 stand rejected under 35 U.S.C. § 112, first paragraph, for allegedly containing subject matter which was not fully described in the specification. The Examiner has objected to the scope of the claims encompassing homologues, derivatives, and mimetics.

In view of the cancellation of Claim 109, the rejection with respect to this claim is now moot. Applicants have amended Claims 110-113 and have removed the language directed to homologues, derivatives, and mimetics.

In view of these amendments, Applicants respectfully request that the Examiner reconsider and withdraw the rejection.

IV. 35 U.S.C. § 102(b)

Claims 109-113 stand rejected under 35 U.S.C. § 102(b) for allegedly being unpatentable over Bochert et al.

Applicants respectfully traverse. The rejection with respect to Claim 109 is now moot due to the cancellation of said claim. Claims 110 and 112 are directed to nucleic acid molecules that, inter alia, encode an amino acid molecule having 45% similarity to SEQ ID NO:2. Claim 111 is directed to a nucleic acid molecule that, inter alia, hybridizes to SEQ ID NO:1 under medium stringency conditions. Claim 113 is directed to the nucleic acid molecule of SEQ ID NO:1.

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The cited reference does not disclose these limitations. The disclosed sequences of Bochert et al. do not meet the 75% similarity requirement, do not meet the hybridization requirement, and are not identical to SEQ ID NO:1. Since not all the limitations of the present claims are disclosed in the cited reference, the reference does not anticipate the claims.

In view of these amendments, Applicants respectfully request that the Examiner reconsider and withdraw the rejection.

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CONCLUSION

Applicants respectfully maintain that claims are patentable and request that they be passed to issue. Applicants have enclosed a check for \$465.00 to extend the period of response for a small entity to February 28, 2003. If this fee is incorrect, please charge or credit Deposit Account No. 11-1410. Applicants invite the Examiner to call the undersigned if any issues may be resolved through a telephonic conversation.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: Feb. 27, 2003

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